

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

United States of America,

Case No. 9:22-cr-00658-RMG

v.

Russell Lucius Laffitte,
Defendant.**DEFENDANT'S MOTION IN LIMINE
TO EXCLUDE OPINION TESTIMONY
AS TO HIS GUILT OR INNOCENCE**

The Defendant, Russell Lucius Laffitte, by and through his undersigned counsel, hereby moves to exclude witness opinion testimony concerning Mr. Laffitte's guilt or innocence as the jury is fully capable of determining that ultimate issue.

Federal Rule of Evidence 701 limits lay witness testimony, *inter alia*, to opinions that are "helpful to . . . determining a fact in issue." Fed. R. Evid. 701(b). And Rule 702 limits expert testimony to, *inter alia*, "the expert's scientific, technical, or other specialized knowledge [that] will help the trier of fact to understand the evidence or determine a fact in issue." Fed. R. Evid. 702(a). The ultimate issue of Mr. Laffitte's guilt or innocence is one reserved for the jury, and the jury is capable of making the determination on its own. A prohibition on testimony as to Mr. Laffitte's guilt or innocence should also include testimony that Mr. Laffitte's conduct was stealing, that he is a thief, or any similar testimony that inappropriately draws a legal conclusion. *See DiBella v. Hopkins*, 403 F.3d 102, 121 (2d Cir. 2005) (finding expert witness "inappropriately drew a legal conclusion by opining that [the defendant's] actions amounted to extortion").

Furthermore, any probative value of such witness testimony is substantially outweighed by the unfair prejudice it would cause Mr. Laffitte. *See* Fed. R. Evid. 403. Therefore, the testimony should also be excluded under Rule 403.

For the foregoing reasons, the Defendant moves to exclude testimony by witnesses concerning their opinion of his guilt or innocence.

Respectfully Submitted,

NELSON MULLINS RILEY & SCARBOROUGH LLP

/s/ E. Bart Daniel

E. Bart Daniel
Federal Bar No. 403
Nelson Mullins Riley & Scarborough LLP
E-mail: bart.daniel@nelsonmullins.com
Phone: (843) 853-5200
151 Meeting Street, 6th Floor
P.O. Box 1806 (29402-1806)
Charleston, SC 29401-2239

/s/ Matt Austin

Matt Austin
Federal Bar No. 11435
Nelson Mullins Riley & Scarborough LLP
E-mail: matt.austin@nelsonmullins.com
Phone: (843) 853-5200
151 Meeting Street, 6th Floor
P.O. Box 1806 (29402-1806)
Charleston, SC 29401-2239

/s/ Christian Joshua Myers

Christian J. Myers
Federal Bar No. 13096
Nelson Mullins Riley & Scarborough LLP
E-mail: josh.myers@nelsonmullins.com
Phone: (202) 689-2800
101 Constitution Avenue NW, Suite 9000
Washington, DC 20001

Attorneys for Russel Lucius Laffitte

Charleston, South Carolina
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